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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/046,188 | 01/16/2002 | Yuval Lichi | 01/22962 | 2782 |

7590 09/26/2003

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EXAMINER

WEIER, ANTHONY J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1761 | |

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/046,188 | LICHI, YUVAL |
| | Examiner | Art Unit |
| | Anthony Weier | 1761 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) 7-16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

- 4) Interview Summary (PTO-413) Paper No(s) _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by either one of Magnifico or Thompson.

Either one of Magnifico or Thompson discloses a device for preparing a beverage in a drinking vessel including a first liquid and a second liquid of lower density wherein said device comprises a flow restrictor member through which the second liquid is transferred into the drinking vessel (which already has the first liquid), said flow restrictor member having a plurality of holes such that the rate of the second liquid forms a distinct layer over the first liquid (See Figures in Magnifico and Thompson).

2. Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by either one of Magnifico.

Magnifico further discloses said flow restrictor member possessing an inner well supported in part by an outer circumscribing support section, wherein said support section also engages the top of the drinking vessel (see element 21).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Magnifico taken together with JP 08150080.

Claim 4 differs in that it further calls for said flow restrictor member to be supported on the drinking vessel with perhipheral flange portion. However, it is well known to support flow restrictor type of devices on a drinking vessel using flanges as taught, for example, by JP 08150080 which shows a supporting flange for a filter system (inherently flow restricting) which engages the top of a drinking vessel (see Figures). It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed such supporting flange as an alternative to the shoulder support means of Magnifico since both would provide the same type of the support required.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in paragraph 3 further in view of Hursh.

The claims further call for said flow restrictor member to have peripheral holes for vapor release. However, such is well known regarding flow restrictor members as taught, for example, by Hursh (see Figures) as a way to allow the release of vapor during beverage preparation. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included same as an art recognized attribute for vapor release in devices used for dispensing/treating liquids.

5. Claims 7-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record does not disclose or

teach the particular peripheral holes required for vapor release, said flow restrictor member containing said second liquid which is removed by a sealable lid, and said flow restrictor member possessing different sized holes in the manner set forth in claim 8. It would not have been obvious to one having ordinary skill in the art at the time of the invention to have arrived at such modifications.

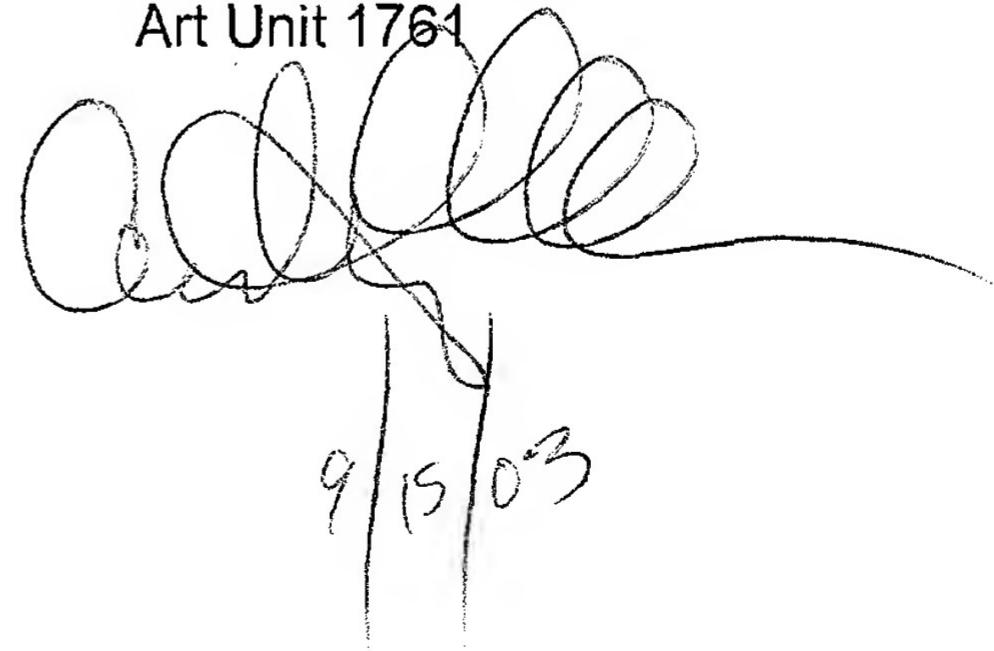
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 703-308-3846. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Anthony Weier
Primary Examiner
Art Unit 1761

Anthony Weier



A handwritten signature of "Anthony Weier" in cursive ink, followed by a stylized flourish. Below the signature, the date "9/15/03" is written vertically.